

## State of New Hampshire

### PUBLIC EMPLOYEE LABOR RELATIONS BOARD

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Nashua Police Supervisors Association

Complainant

v.

City of Nashua Police Commission

Respondent

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Case No. P-0744-1

Decision No. 2001-078

### PRE-HEARING CONFERENCE MEMORANDUM AND ORDER

#### BACKGROUND

The Nashua Police Supervisors Association, (Complainant) filed unfair labor practice charges on August 6, 2001 pursuant to RSA 273-A:5 I (a), (g) and (h) alleging that the Rochester Police Commission (Respondent), and its agents restrained, coerced and otherwise interfered with members of the employee association in the exercise of certain rights afforded to an exclusive bargaining representative under the statute. Said actions of the employer and its agents are alleged to have consisted of statements made by the Deputy Chief regarding a request of a member of the association for a public hearing in connection with his termination and regarding the attendance at that hearing by other association members in support of their fellow member.

The Complainant requests relief in the form of a Board order finding that the Commission committed an unfair labor practice, requesting that the Board issue a cease and desist order against the Commission and ordering copies to be posted.

The Nashua Police Commission denies certain statements attributed to its Deputy Chief were, in fact, made by him. Further, the Respondent Commission denies that it undertook or directed any of its agents to attempt to restrain, coerce or otherwise interfere with any employees in the exercise of their legal rights or the collective bargaining agreement between the parties. The Commission requests relief in the form of a Board denial of the unfair labor practice complaint and the request for a cease and desist order and posting of the same.

PARTICIPATING REPRESENTATIVES

For the Complainant: Peter C. Phillips, Esq., Counsel to the IBPO Local 418

For the Respondent: Stephen M. Bennett, Esquire, Deputy Corporate Counsel

ISSUE FOR DETERMINATION BY THE BOARD

1. Did the actions of the Deputy Chief in connection with the public hearing requested by Sgt. Scaccia and attended by other association members violate the statutory prohibitions against restraint, coercion or interference with employees in the exercise of protected rights as contained in RSA 273-A:5(I)(a), (g) or (h)?

WITNESSES

For the Complainant:

1. Lt. Paul Gravel
2. Sgt. Ronald Scaccia
3. Lt. Donald Campbell

For the Respondent:

1. Commissioner Maurice Arel, Chairman
2. Commissioner Michael Pignatelli
3. Deputy Chief Timothy Hefferan
4. Lt. Donald Campbell

Both parties reserve the right to amend their List of Witnesses in conformity with the schedule contained in the DECISION SECTION appearing at the conclusion of this order, or upon a proper showing, later reasonable notice to the other party. It is understood that each party may rely on the representations of the other party that witnesses appearing on their respective list will be available at the hearing.

## EXHIBITS

### Joint Exhibits:

1. Letter of Intent, dated 1/26/01
2. Termination Letter, dated 2/17/01
3. Sgt. Scaccia's request for conduct of a Public Hearing
4. Public Notice of Meeting re: Commission's Special Hearing

### For the Complainant:

None anticipated, other than those incorporated as Joint Exhibits.

### For the Respondent:

1. Police Department's Request Form re: Use of Classroom, prepared by Police Commission

Both parties reserve the right to amend their List of Exhibits in conformity with the schedule contained in the DECISION SECTION appearing at the conclusion of this order, or upon proper showing, later reasonable notice to the other party. Copies of all exhibits are to be submitted to the presiding officer in accordance with Pub 203.02. It is to be understood by the parties that each party may rely on the representations of the other that the exhibits listed above will be available at hearing.

## LENGTH OF HEARING

The time being set aside for this hearing is one-half day. If either party believes additional time is required, written notice of the need for additional time shall be filed with the PELRB at least fourteen (14) days prior to the scheduled hearing date.

## DECISION AND PRE-HEARING ORDER

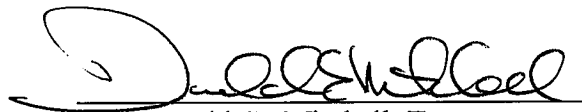
1. The parties have agreed to meet and confer for the purpose of executing a statement of mutually agreed facts upon which no additional evidence need be produced at the hearing.
2. Not later than five (5) days before the scheduled date of the hearing, as required by Rule Pub 203.01(b), the party representatives shall exchange their final Exhibit List and final Witness List indicating the purpose of each witness's testimony. At the same time, each shall deliver, mail, fax or e-mail a copy of their respective lists to the PELRB. The party representatives shall meet, or otherwise arrange, to pre-mark all exhibits, for

identification, prior to the time of hearing and have sufficient copies available for distribution at the hearing as required by Pub 203.02.

3. Any additional preliminary, procedural or dispositive motions shall be filed by the parties no later than fourteen (14) days prior to the scheduled date of the hearing as appears below.

Unless otherwise ordered as a result of the filing of any subsequent motion, an evidentiary hearing between the parties is scheduled to be conducted at the Office of the Public Employee Labor Relations Board on Thursday, October 18, 2001 beginning at 9:30 AM.

Signed this 22<sup>nd</sup> day of August, 2001.

A handwritten signature in black ink, appearing to read "Donald E. Mitchell", written over a horizontal line.

Donald E. Mitchell, Esq.  
Hearings Officer